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ALGY TAMOSHUNAS  
CORPORATE PATENT COUNSEL  
US PHILIPS CORPORATION  
580 WHITE PLAINS ROAD  
TARRYTOWN, NY 10591

EXAMINER

D AGOSTA, STEPHEN M

ART UNIT

PAPER NUMBER

2684

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/464,855	BULTHUIS ET AL.
	Examiner	Art Unit
	Stephen M. D'Agosta	2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 January 2002.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4 and 6-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4 and 6-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Response to Amendment*

As per the first Office Action, **Claims 1 and 15** were originally rejected. The applicant has asked for further evidence that prior art exists which “provides a first type of auditory feedback when the user is navigating at a first speed and a second type of auditory feedback when the user is navigating at a second different speed”.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 6, 7, 9, 11, 15-17, 19 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Macor et al. U.S. Patent 5,901,222 (corrected), Kowalski U.S. Patent 5,095,503 and Itoh et al. U.S. Patent 6,205,427 (hereafter referred to as Macor, Kowalski and Itoh).

As per amended claim 1 and 15, **which adds claim 5 to both claim 1 AND claim 15**, Macor teaches an “information processing device with a user interface” to allow a user to “navigate a set of input options” and “select the validated input” via the use of a manipulatable member (eg. Trackball, Joystick) (C2, L26-45). Specifically, the

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trackball/joystick allows the user to navigate through screens of information to get to an action the user wishes to perform (C2, L26-45).

Amended Claims 1 and 15 also describes the device's ability to "provide auditory feedback about which option is selected", which read on Kowalski's cellular telephone that provides voice-synthesized feedback/output for selected features, options, services, directories, etc. (C1, L53-58 and C2, L4-26). This allows the user to easily grasp the contents of an item retrieved or of an operation they are performing.

Both Macor and Kowalski are silent on "auditory feedback in a first manner when navigating at a fast speed and in a second manner (different from the first manner) when the user is navigating slowly".

**The applicant has asked the examiner to provide proof of prior art that teaches navigating at two different speeds with two different auditory outputs.**

Itoh, which is newly found prior art, teaches a computer device (Figure 1, #16) with a voice output apparatus (C1, L5) that converts text data to a voice output at a speed where the data content is understandable (eg. normal speed) and also allows for the user to convert text to speech at a faster (eg. second different) speed (C1, L6-12 or C12, L46-48). The "text" in this instance is analogous to Menus or Data which is stored in Macor's device. Itoh teaches two "reproduction keys" (Fast and Normal, Figure 1, #180 and #182).

While much of Itoh's invention appears focused on allowing blind people to use the Internet (C8, L31), his claims deal exclusively with the ability of the invention to convert (received/stored) text to speech and the audible outputting of said speech.

(Kowalski's invention dealt mainly with the user being able to use a cell phone device without having to look at it (C7, L18-21). **Note:** A web enabled phone could be substituted into the inventions of Itoh and Kowalski). Itoh states that voice synthesizing technology can be used in other applications such as electronic books (C11, L12-13), CD or tape players (C11, L7-9). Itoh also teaches that various modifications can be made to the invention (C11, L33-34). Therefore, it would be logical that the "spirit" of this invention's text to speech synthesis could be incorporated into Macor's portable telecommunication device (with Kowalski's features added as well).

It would have been obvious to one skilled in the art to adapt Macor's invention as modified by Kowalski, such that it has auditory output and can provide a first and second auditory feedback to user when navigating at different speeds as taught by Itoh, to allow the user to scroll through lists of menus/data and understand where they are within said list (via the differing auditory outputs based on scroll speed) without looking at the device (ie. If driving, visually impaired, in the dark, etc.).

As per **Claim 2**, which describes "navigation via manual input", Macor teaches the use of a trackball (or joystick) that can be depressed to alter information being displayed (C2, L28-39).

As per **Claim 3**, which describes "validation of input via manual input", Macor teaches the use of a depressable trackball or joystick to allows the user to select/validate the information being displayed and/or the operation that they want to perform (C4, L28-30 and/or C4, L37-39).

As per **Claim 4**, which describes “manual input allows for stepping through the set of options”, Macor teaches the use of the depressable trackball or joystick to change the information which is shown on the display (C4, L28-30 and C4, L37-39).

As per **Claims 6 and 16**, which describes the user “scanning a linear array of options via the navigation input”, Macor teaches the use of the trackball/joystick which allow the user to navigate through information/screens/menus (C2, L28-45). Figure 10 shows a “Scroll” bar with “<” and “>” functionality which could be used to navigate up and down a list. Figure 4 shows a menu which can be navigated by manipulating the trackball shown. Figures 7 and 8 show a screen of alphanumeric characters which can be navigated via the trackball shown (These two figures also show “functions” which could be invoked (ie. Edit, delete, exit) via the trackball as well).

A Linear scan, while not defined in the application, is considered to be one that allows the user to proceed from “entry N” to “entry N+1” (or “entry N-1”) via the manipulation of the trackball or joystick.

As per **Claims 7 and 17**, which describes the user “scanning a circular array of options via the navigation input”, reads on Macor’s use of the trackball/joystick which allows the user to navigate through information/screens/menus (C2, L28-45). Figure 10 shows a “Scroll” bar with “<” and “>” functionality which could be used to navigate up and down a list. Figure 4 shows a menu which can be navigated by manipulating the trackball shown. Figures 7 and 8 show a screen of alphanumeric characters which can be navigated via the trackball shown (These two figures also show “functions” which could be invoked (ie. Edit, delete, exit) via the trackball as well).

A Circular scan, while not defined in the application, is considered to be one that allows the user to scroll in a circular fashion, such that when the **end** is reached, the next entry listed is the **first**. Hence the list “wraps” back upon itself (forward or backward). For entries/options listed alphabetically, the entry after “Z” would be “A” and vice versa (if going backwards from “A”).

As per **Claim 9**, which describes “a mobile communication apparatus”, Macor teaches the use of a portable telecommunications device (C1, L14-15).

As per **Claim 11**, which describes the information processing device in claim 1 as “being a computer” reads on Macor’s invention since it contains a microprocessor (C2, L63).

As per **Claim 19**, which describes the device as “being telephone which can store telephone extensions”, Macor teaches the “portable telecommunications device” as being a phone since he shows a device/phone (Figure 1) with the name and phone number of a person on the display (Figures 9 and 10). Macor shows that searching the phone’s database will retrieve a name and phone number (Figure 10 and C5, L45-51).

As per **Claim 20**, which describes the device being “capable of email communications and the set of options are email addresses”, reads on Macor as his portable telecommunications device (C2, L19-20) having the ability to send/receive “electronic” transmissions. (C3, L47). If the unit can send/receive, then it must have the ability to store and use email addresses. Macor shows the unit with a “Send Message” button (Figure #4) and a “Directory” button. He also shows the unit as having received an electronic message (Figure #8).

Claims 8 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Macor, Kowalski and Itoh as applied to claim 1 above, and further in view of Ericsson Corporation Derwent 1999-151852 (hereafter referred to as Ericsson).

As per **Claim 8**, which describes an ability to "enable the user to program memory for storing audio files for auditory feedback while navigating in the set of options", Macor teaches a portable telecommunications device (C2, L19-20) but is silent on storing audio files. Ericsson teaches a cell phone which can be adapted so that it can "store MP3 files and associated play lists" (Reference Title and Abstract). It would be obvious to one skilled in the art to adapt Macor's cell phone such that it can STORE (and play) audio/MP3 files while also incorporating "introductory play out" capability such that the cell phone has added functionality.

As per **Claim 12**, which describes the ability of "an apparatus for playout of music files", reads on Macor and Ericsson as the cell phone having MP3 capability.. Macor teaches a portable telecommunications device (C2, L19-20) but is silent on playout of music files. Ericsson teaches a cell phone with extended flash memory that allows the user to store and play audio files (Title and Abstract). Hence it would be obvious to one skilled in the art to modify Macor's device such that it can be used to play audio/MP3 files thus adding functionality.

Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Macor, Kowalski and Itoh as applied to claim 1 above, and further in view of Schwelb et al. U.S. Patent 5,950,123 (hereafter referred to as Schwelb).

As per **Claim 10**, which describes a “wireless email terminal for operating with an application server for text-to-speech conversion”, Macor teaches a device being portable (C1, L48) and having wireless electronic messaging capability (C3, L47) since he shows his invention with a “Send Message” option (Figure 2, top right-hand screen option), an “incoming message indicator” (C3, L75 or Figure 3, note “message” LED indicator on front panel) and a text message being viewable on the display screen (Figure 8, opened door shows “Hi John, Can you help me with this concept? Thanks! Jim Macor x4535”). Macor is silent on the device being able to convert text-to-speech. Schwelb teaches a cellular phone network that allows a user to receive an email message in audible form (eg. Text-to-speech converted) (C1, L35-39). It would be obvious to one skilled in the art to adapt Macor’s portable device to allow it to play out an email message in “audible format” thus adding functionality.

Claims 13, 18 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Macor, Kowalski and Itoh as applied to claim 1 (and 15) above, and further in view of Ericsson Corporation DERWENT 1999-151852 and Microsoft Corporation (hereafter referred to as Microsoft).

As per **Claim 13**, which describes “introductory auditory feedback being a portion of a respective one of the files”, Macor teaches a portable telecommunications device (C2, L19-20) but is silent on introductory auditory feedback. Ericsson teaches a cellular

phone with MP3 capability (ie. The phone can play MP3/audio files) (Reference Title and Abstract) and Microsoft teaches software (as referenced by the applicant: Page 9, L16-27) which plays a small portion of a song (eg. Introduction) while a user is navigating a list of songs. It would be obvious to one skilled in the art to adapt Macor's device for increased functionality such that it can play MP3/audio files and incorporates software similar to Microsoft's CD Player which would play a brief introduction of each song in memory when a user is attempting to select a song to play.

As per **Claim 18**, which describes the user being able to "program the device with the music that is played during navigation", Macor teaches a portable telecommunications device (C2, L19-20) but is silent on music being played during navigation. Ericsson teaches a cellular phone with MP3 capability (Title and Abstract). Microsoft teaches, per the applicant (Page 9, L16-27), CD Player software which has "a short intro play-out mode to play out only the first portion of each track stored". It would be obvious to one skilled in the art to adapt Macor's device/cell phone for added functionality such that the user can program memory with audio files snippets that get played out as the user navigates through a set of options (eg. Song list).

As per **Claim 21**, which describes "audio play-out functionality and the set of options are introductory portions audio files", Macor teaches a portable telecommunications device (C2, L19-20), but is silent of audio playout functionality. Ericsson teaches a cell phone with MP3/audio playing capability (Reference Title and Abstract). Microsoft teaches, per the applicant (Pg. 9, L16-27), that CD Player software plays a brief introduction of an audio file (from a list of files) as a user peruses the list.

It would be obvious to one skilled in the art to adapt Macor's device to include Ericsson's MP3-storing/playing functionality along with software that is similar to Microsoft's play-out introduction for increased functionality.

**Claims 14 and 22** rejected under 35 U.S.C. 103(a) as being unpatentable over Macor, Kowalski and Itoh as applied to claim 1 (and 15) above, and further in view of Argyroudis et al. U.S. Patent 5,748,104 (hereafter referred to as Argyroudis).

As per **Claim 14**, which describes the device as being a "remote control for consumer appliances", Macor teaches a portable telecommunications device (C2, L19-20) but is silent on it being able to remotely control appliances. Argyroudis teaches a mobile/cell phone remotely activating/deactivating an appliance (C6, L44-47 and Figure 1). It would be obvious to one skilled in the art to adapt Macor's device such that it can remotely activate/deactivate an appliance thus adding further functionality.

As per **Claim 22**, which describes a method whereby the device is "a remote control device and the options are control codes for consumer appliances", Macor teaches a portable telecommunications device (C2, L19-20) but is silent on it using control codes. Argyroudis teaches that one could send "control messages from a conventional subscriber station" such as a cell phone to "remotely activate and deactivate an appliance" (C6, L44-47).

The applicant describes his remote control device as being able to do more than just turn on/off an appliance. Hence, it would be obvious to one skilled in the art to modify Macor's device such that it can utilize appliance control codes for enhanced functionality.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Luther U.S. Patent 5,500,919 discloses a graphics user interface for text-to-speech conversion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Hunter can be reached on 703-308-6732. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

SMD  
January 24, 2002

  
DANIEL HUNTER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600